

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

AKECHETA MORNINGSTAR, PH.D.

PLAINTIFF

V.

NO: 3:22CV145-MPM-JMV

**HBO, JONATHON NOLAN, AND
LISA JOY**

DEFENDANTS

ORDER

This court presently has before it a Report and Recommendation (R&R) from Magistrate Judge Virden, recommending that this case be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B) for failure to state a non-frivolous claim over which this court has jurisdiction. In recommending dismissal of this case, Judge Virden writes that:

Here, the court finds, respectfully, that, at best, Plaintiff makes fantastical claims that are frivolous on their face. For example, Plaintiff seeks a judgment of ten (10) million dollars from two individuals named as defendants but who are not alleged to have done anything, much less something that could give rise to liability. As for the remaining named defendant, “HBO”, Plaintiff asserts that in 2020, he viewed an advertisement on his phone for a new skit produced by HBO called “Westworld.” He alleges Westworld is a duplicate of “Yearning for Control” allegedly copyrighted in 2005 by Andray Johnson who was “effaced off of this earth” and replaced by a European persona by the name of Andray Johnson in 2013. Though purportedly copyrighted in 2005, as aforesaid, Plaintiff also alleges “Yearning for Control” was not even written until 2011. This was at a time when according to the complaint, the Plaintiff, Akecheta Morningstar, did not yet exist. Moreover, though allegedly written in 2011 and copyrighted 6 years earlier in 2005, according to the complaint the purported work is a memoir about, Andres (last name presumably Johnson) who, according to Plaintiff, did not come into existence until 2013. Finally, though Plaintiff asserts “Westworld” is a “duplicate” of “Yearning for Control”, the sparse facts asserted about the content of the two works (recited above) does not remotely bear out such an exacting contention. In short, irrespective of Plaintiff’s, perhaps, genuine belief in the allegations made, in the undersigned’s view, these allegations are entirely non-sensical and do not, as made, give rise to a plausible claim over which this court has jurisdiction.

[R&R at 3-4].

In opposing Judge Virden's recommended dismissal, Morningstar makes allegations which, while evidently sincere, are no less fantastical than those set forth in his complaint. This court accordingly agrees with Judge Virden that this case must be dismissed as frivolous.

In light of the forgoing, it is hereby ordered that the Magistrate Judge's R&R is adopted as the order of this court. This case is hereby dismissed, and plaintiff's motion to proceed *in forma pauperis* is denied. Plaintiff's motion for a status hearing is denied.

A separate judgment will be entered this date pursuant to Fed. R. Civ. P. 58.

So ordered, this, the 31st day of January, 2023.



UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF MISSISSIPPI